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EXAMINER

WANG, LIANG CHE A

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 11/10/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/539,392

Applicant(s)

SMITH, STEPHEN

Examiner

Liang-che Alex Wang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-3, 5-44 have been examined.

Claim Rejections - 35 USC § 103

2. Claims 1, 6-7, 10-11, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joseph, US Patent Number 5,878,401, hereinafter Joseph, in views of Gignac (Gignac, T. "Descartes tracks inventory through cybersapce") herein after Gignac.
3. Referring to claim 1, Joseph has taught an online system of locating consumer product having specific configuration in an enterprise production pipeline and inventory comprising:
 - a. a locate client process (item 2, Figure 1) operable to receive product configuration data and generate a search request message incorporating the product configuration data in response to user (Col 1 lines 64 –Col 2 lines 3);
 - b. an inventory database that stores product availability data in inventory (Col 2 lines 15-18);
 - c. a locate server process (item 4, Figure 1) operable to receive the search request message from the locate client process; search the product availability data in the inventory database for product configuration data (Col 2 lines 4 – 20); generate a search reply message containing the matching products, and return the search reply message to the locate client process (Col 2 line 34).

Joseph fails to teach storing product availability data comprising information about products on the order bank, being produced, and in-transit to distribution facilities, and at the distribution facilities.

However, Gignac has taught a web-based inventory tracking system that monitors product availability data for products that are on the order bank (see Gignac, page 1, in Full Text, third paragraph, lines 2 “Energy DeliveryNet.com proactively monitors an order”), being produced (“supplier are shipping in time”, product is being produced in order to be shipped), and in-transit to distribution facilities (“what the status of a customer’s order is as it moves from the supplier to the distributor”), and at the distribution facilities (“to the distributor”).

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the teaching of Joseph such that to store product availability data from a variety distribution chain nodes in the inventory database including product availability data on products on the order bank, being produced, and in-transit to distribution facilities, and at the distribution facilities, because both inventions are regarding inventory tracking.

A person with ordinary skill in the art would have been motivated to make the modification to Joseph because teachings of Gignac provides an inventory database for storing product availability data from a variety distribution chain nodes would enable merchants to provide users with comprehensive product availability data, and the real-time visibility and proactively monitoring to an order (see page 1 of Gignac.) And a person with ordinary skill in the art would have known that products on the order bank,

being produced, and in-transit to distribution facilities, and at the distribution facilities are ones of the distribution chain nodes in the distribution channel (pipeline). Having information of the product availability from each variety distribution chain nodes as taught by Gignac would give customer more information to make the purchase decision.

4. Referring to claim 6, Joseph has further taught wherein the search reply message comprises a pointer to an image of each product (Col 2 lines 40-43, also see abstract lines 10-11)
5. Referring to claim 7, Joseph has further taught where in the locate server process comprises:
 - a. a listener operable to receive the search request message from the locate client process (Col 6, lines 17-19, Col 1 lines 64 –Col 2 lines 3, a listener is an inherent element for a locate server to receive the request from user to initialize a search);
 - b. a parser operable to receive the search request message from the listener and extract message parameters (Col 1 lines 64 –Col 2 lines 3, a parser is inherent element for locate server to search.)
 - c. a searcher operable to search the product availability data in the inventory data base according to the message parameters (Col 1 lines 64 –Col 2 lines 3).
6. Referring to claim 10, Joseph has taught an online method of locating consumer product having specific configuration in an enterprise production pipeline and inventory comprising:
 - a. receiving a search request message having product configuration data submitted by a user; (Col 3 lines 36-64, and Col 1 lines 64-65, the inventive concept in

Joseph's invention is to have the sales computer, item 2 in figure 1 to receive a search request message having the shoes or sneakers configuration data submitted by a user.)

- b. formulating a search query with search criteria corresponding to the product configuration (Col 3 lines 36-64, and Col 1 lines 64-65, and Figure 4 search query is formulated with search criteria corresponding to the product configuration data.)
- c. searching product availability data associated with products in the inventory database for a product matching the product configuration data (Col 2 lines 4-23);
- d. generating a search reply message containing any product determined based on the search of the product availability data to substantially match the product configuration data (Col 2 lines 4-34);
- e. sending the search reply message to user. (Col 2 lines 2-3)

Joseph does not teach the inventory database containing information about products that are on the order bank, in-production, in-transit and in-inventory.

However, Gignac has taught a web-based inventory tracking system that monitors product availability data comprising information about products on the order bank (see Gignac, page 1, in Full Text, third paragraph, lines 2 "Energy DeliveryNet.com proactively monitors an order"), being produced ("supplier are shipping in time", product is being produced in order to be shipped), and in-transit to distribution facilities ("what the status of a customer's order is as it moves from the supplier to the distributor"), and at the distribution facilities ("to the distributor").

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the teaching of Joseph such that to store product availability data from a variety distribution chain nodes in the inventory database including products on the order bank, in-production, in-transit and in-inventory, because both Joseph and Gignac have taught inventions regarding to inventory tracking.

A person with ordinary skill in the art would have been motivated to make the modification to Joseph because teachings of Gignac provides an inventory database for storing product availability data from a variety distribution chain nodes would enable merchants to provide users with comprehensive product availability data. And a person with ordinary skill in the art would have known that products on the order bank, in-production, in-transit and in-inventory are ones of the distribution chain nodes in the distribution channel (pipeline). Having information of the product availability from each variety distribution chain nodes as taught by Gignac would give customer more information to make the purchase decision.

7. Referring to claim 11, Joseph has further taught the method of claim 10, further comprising:
 - a. receiving the search request message on a predetermined port (Col 6, lines 17-19, Col 1 lines 64 –Col 2 lines 3, a listener is an inherent element for a locate server to receive the request from user to initialize a search);
 - b. parsing the search request message to extract product configuration data (Col 1 lines 64 –Col 2 lines 3, a parser is inherent element for locate server to search.);

- c. searching the product availability data using the extracted product configuration data (Col 1 lines 64 –Col 2 lines 3).
- 8. Referring to claim 17, Joseph in views of Gignac has taught an invention as described in claim 10, Joseph has not taught the detail of how the product availability data from a variety distribution chain nodes to be implemented his invention.

However, Gignac has taught a web-based inventory tracking system that monitors product inventory as it moves through a distribution channel (page 1 and 2.)

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the teaching of Joseph such that to import in-inventory product availability data from dealership, and importing in-process product availability data from an enterprise database. (see paragraph 4, Gignac has taught importing product availability data from a variety distribution chain nodes in the inventory database)

A person with ordinary skill in the art would have been motivated to make the modification to Joseph because teachings of Gignac provides an inventory database for importing product availability data from a variety distribution chain nodes would enable merchants to provide users with comprehensive product availability data. Also, providing users with comprehensive product availability data would enable user to make an informed purchasing decision with respect desired delivery date.

- 9. Referring to claim 18, Joseph has further taught wherein generating the search reply message comprises:
 - a. incorporating a unique identifier of each substantially matching product (Col 6 lines 14-19)

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- b. incorporating product configuration data of each substantially matching product.
(Col 6 lines 4-36, product configuration data inherently exist when display the matching product for user to select)
- c. sorting the substantially matching products by descending degree of match between the product configuration data of the products and the product configuration data in the search request message (Col 6 lines 20-36, the sorting could be sort in any preferred way, but it is obvious for a designer to design a sorting list that have the most relevant items sorted prior than the least relevant items.)

10. Referring to claim 19, Joseph has further taught the method in claim 10, further comprising:

- a. receiving a tag request message submitted by the user, the tag request message containing a unique product identifier (Col 6 lines 44-45, Col 6 lines 38-39, this is the goal for all retail application, user must be able to locate a product in order to purchase it);
- b. modifying the product availability data associated with the product identified by the unique product identifier in the inventory database (Col 6 lines 39-51);
- c. generating a tag reply message confirming the completion of tagging the identified product (Col 6 lines 51-58).

11. Claims 2, 8-9, 12, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joseph in views of Gignac in further views of Hemphill et al., US Patent Number 6,167,448, hereinafter Hemphill.

12. Referring to claim 2, Joseph in views of Gignac has taught an invention as described in claim 1. Joseph in views of Gignac has not taught wherein the search request message and search reply message are XML messages.

However, Hemphill has taught converting messages to and from in XML format since it provides more flexible and powerful method of sending messages. (Col 2 lines 33-37)

Therefore, it would have been obvious for a person with ordinary skill in the art at the time the invention was made to modify Joseph as taught by Hemphill to have the search request message and search reply message in XML format, because such modification would have allowed for a more flexible scheme for reading incoming messages. (Col 2 lines 33-37)

13. Referring to claim 8, Joseph in views of Gignac has taught an invention as described in claim 1. Joseph in views of Gignac has not taught wherein the locate client process comprises a message converter operable to receive a search request document containing search criteria and convert to an XML document having a predetermined format; and a message client process operable to receive the XML document and convert to an XML search request message.

However, Hemphill has taught converting messages to and from in XML format since it provides more flexible and powerful method of sending messages. (Col 1 lines 34-Col 2 lines 48.)

Therefore, it would have been obvious for a person with ordinary skill in the art at the time the invention was made to modify Joseph as taught by Hemphill to include a message converter operable to receive a search request document containing search

criteria and convert to an XML document having a predetermined format; and a message client process operable to receive the XML document and convert to an XML search request message, because such modification would have allowed for a more flexible scheme for reading incoming messages. (Col 2 lines 33-37)

14. Referring to claim 9, Joseph has further taught a response parser operable to receive the search reply messages from the locate server process and generate record set objects therefrom (Col 6 lines 18-20, parser is a inherent element.)
15. Referring to claim 12, claim 12 encompasses the same scope of the invention as that of the claim 2. Therefore, claim 12 is rejected for the same reason as the claim 2.
16. Referring to claim 15, claim 15 encompasses the same scope of the invention as that of the claim 8. Therefore, claim 15 is rejected for the same reason as the claim 8.
17. Claims 3, 5, 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joseph in views of Gignac in further views of Sharpe et al., US Patent Number 6,341,282, hereinafter Sharpe.
18. Referring to claim 3, Joseph in views of Gignac has taught an invention as described in claim 1, Joseph has further taught wherein the search reply message comprises a list of products and respective configuration data (Col 6 lines 21-36)

Joseph in views of Gignac has not taught a percentage value for each product in the list indicative of the degree of matching between the product and the product configuration data contained in the search request message.

Sharpe has taught determining an achieved important value for each of the search criterion using the information retrieved from the information source and the importance

rate assigned to each of the search criterion (Col 1 lines 38-52, see figure 10 and tables contains criteria with percentages) and output the score (item 442 figure 10)

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the teaching of Joseph such that to have a percentage value for each product in the list indicative of the degree of matching between the product and the product configuration data contained in the search request message.

A person with ordinary skill in the art would have been motivated to make the modification to Joseph because the information retrieved from the information source may be scored enabling a user to determined how closely the information matched the search query (Col 1 lines 56-63.)

19. Referring to claim 5, Sharpe has further taught wherein the search request message comprises a list of search criteria and a weighting of each criteria. (Col 1 54-56)

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the teaching of Joseph. A person with ordinary skill in the art would have been motivated to make the modification to Joseph because the information retrieved from the information source may be scored enabling a user to determined how closely the information matched the search query (Col 1 lines 56-63.)

20. Referring to claim 13, claim 13 encompasses the same scope of the invention as that of the claim 3. Therefore, claim 13 is rejected for the same reason as the claim 3.
21. Referring to claim 14, claim 14 encompasses the same scope of the invention as that of the claim 5. Therefore, claim 14 is rejected for the same reason as the claim 5.

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22. Claims 16, 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joseph in views of Gignac in further view of Sharpe and Auto-By-Tel, (<http://www.autobytel.com>, 12/12/1997), hereinafter Auto-By-Tel.
23. Referring to claim 16, Joseph has further taught receiving product configuration selection from the user (Figure 4, and Col 4 line 30-42); and display a search result list of product substantially matching the product configuration on a browser (Figure 4, display list of acceptable alternate items.)

Joseph in views of Gignac has not explicitly taught displaying product configuration information to the user on a web page.

Auto-By-Tel has shown a web page that sells vehicles that display the configuration data for user to choose the cars in 1997.

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the teaching of Joseph and Gignac to be implemented on a vehicle selling website.

A person with ordinary skill in the art would have been motivated to make the modification to Joseph and Gignac because Joseph has indicated that his invention could be apply to any retails store and to any other appropriate application including warehouse application (Col 3 lines 29-36), and vehicle selling website sure is kind of on line retail store. Having Joseph and Gignac's invention to be implemented on the vehicle selling website would benefit the website to have that advantages provided by Joseph and Gignac.

Furthermore, Joseph and Gignac have not taught displaying percentage matching data on a web page.

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the teaching of Joseph such that to have a percentage value for each product in the list indicative of the degree of matching between the product and the product configuration data contained in the search request message.

A person with ordinary skill in the art would have been motivated to make the modification to Joseph because the information retrieved from the information source may be scored enabling a user to determined how closely the information matched the search query (Col 1 lines 56-63.)

24. Referring to claim 21, Joseph has further taught the method set forth in claim 16, further comprising displaying an image of the product in response to receiving a user selection input (Col 6 lines 18-19)
25. Referring to claim 22, Joseph has further taught the method set forth in claim 16, further comprising displaying detailed information associated with a product in response to receiving a user selection input (Col 6 lines 20-36, the image, size, manufacturer are displayed to user as detailed information.)
26. Referring to claim 23, Joseph has further taught the method set forth in claim 16, further comprising:
 - a. receiving a user selection input of a product in list; (Col 6 lines 44-45, this is the goal for all retail application, user must be able to locate a product in order to purchase it);

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- b. generating a search request message having an unique product identifier associated with the selected product (inherent to retrieve the selected product);
 - c. searching the product availability data for detailed data associated with the unique product identifier (Col 6 lines 44-51, access to database to retrieve the detailed info of the selected item);
 - d. generating a search reply message having the detailed data (Figure 5, Col 6 lines 50-58, the pickup ticket is generated.)
27. Referring to claims 24-37, claims 24-37 encompass the similar scope of the invention as that of the claim 10-23, except Joseph's typical application for the invention is in shoe or sneaker stores. However, Joseph also states that it will also be appreciated that the invention is capable to any appropriate retail store (including selling vehicles) and to any other appropriate application, including warehouse application (Col 3 lines 29-36) Therefore, claims 24-37 rejected for the same reason as the claims 10-23.
28. Referring to claims 38-44, claims 38-44 encompass the same scope of the invention as that of the claim 24-37. Therefore, claims 38-44 rejected for the same reason as the claims 24-37.

Response to Arguments

29. Applicant's arguments filed 04/24/2003, paper number 7, have been fully considered but they are not persuasive. The reasons are set forth below.
30. **Applicants argue**
- a. Argument 1: Joseph teaches away See specifically page 15 , par. 1

- b. Argument 2: Gignac fails to teach the acknowledge deficiency
- c. Argument 3: The Examiner fails to provide a proper motivation to combine

31. **Examiner's response:**

Claims are given broadest reasonable interpretation: MPEP 2111 states that during patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA1969)

In accordance with MPEP 2111 the Applicants do not claim what they have argued: Claim 1 is directed to an inline system for locating ... by substantially matching submitted product configuration data with product availability data in an inventory database, generating and returning a reply.

It appears that the applicant chose to criticize and/or mischaracterize the applied references instead of identifying what particular limitations in the claims he is relying on. Therefore Applicant argues what she or he believes his invention is, not what is recited in the claims. Examiner's position will be further described in the responses to each of the arguments below.

Response to Argument 1: (Joseph teaches away See specifically page 15 , par. 1) Applicant refers to certain portions of the Joseph reference, specifically the "Description of the Related Art" section and argues that Joseph teaches away. Applicants

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does not provide any arguments with reference to relevant teachings of Joseph cited by the examiner.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Response to argument 2: In response to applicant's argument that ... Gignac fails to teach the acknowledge deficiency, the Examiner notes that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In this case, Joseph does not teach the product availability data for products that are on the order bank, being produced, in-transit to distribution facilities and the distribution facilities. Gignac was combined with Joseph to show the product availability data in an inventory-tracking database.

Response to Argument 3: (The Examiner fails to provide a proper motivation to combine --- hindsight) In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that

any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Gignac has taught a web-based inventory tracking system that monitors product availability data for products that are on the order bank as "general knowledge available" to one of ordinary skill in the art, to provides the real-time visibility and proactively monitoring to an order (see page 1 of Gignac.) Therefore, a person with ordinary skill in the art would have the motivation to combine the Gignac reference with the Joseph reference to provide the real-time visibility and proactively monitoring.

Conclusion

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must show how the amendments avoid such references and objections. See 37 CFR 1.111(c).
33. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Liang-che Alex Wang whose telephone number is (703) 305-8159. The examiner can normally be reached on Monday thru Friday, 8:30 am to 5:00 pm.

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34. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T Alam can be reached on (703)308-6662. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.
35. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9000.

Liang-che Alex Wang *lcw*
November 6, 2003


HOSAIN ALAM
SUPERVISORY PATENT EXAMINER